

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

NEWCROP, LLC,

Plaintiff,

v.

PRESQRIBER, LLC,

Defendant.

Case No. 6:14-cv-539

PRESQRIBER, LLC’S ANSWER AND DEFENSES TO ORIGINAL COMPLAINT

Presqriber, LLC (“Defendant” or “Presqriber”) provides this Answer and Defenses in response to the allegations and claims of Plaintiff NewCrop, LLC’s (“Plaintiff” or “NewCrop”) Original Complaint. Any allegation not expressly admitted herein is denied.

A. ANSWER

NATURE OF ACTION

1. Paragraph 1 of the Complaint consists of legal assertions to which no response is required.

2. Presqriber admits that it filed 26 complaints for patent infringement in the Eastern District of Texas, Tyler Division, asserting infringement of U.S. Patent No. 5,758,095 (hereinafter “the ‘095 patent”), on or about May 8, 2014. Presqriber admits that NewCrop was not named in any of those suits. Presqriber lacks sufficient knowledge of NewCrop’s allegations that “several entities that use NewCrop’s systems and services under license agreements, have been named as defendants” in those suits and therefore denies them on that basis. Presqriber lacks sufficient knowledge of NewCrop’s allegations that certain defendants in the above referenced cases have requested indemnification from NewCrop with regard to the ‘095 patent and therefore denies them on that basis. Presqriber denies all other allegations in paragraph 2 of

NewCrop's Complaint and denies that NewCrop is entitled to any declaration as requested in its Complaint.

PARTIES

3. Prescriber lacks sufficient knowledge of the allegations in Paragraph 3 of the Complaint.

4. Prescriber admits that it is a Texas limited liability company with its principal office located in the Eastern District of Texas, at 719 W. Front Street, Suite 211, Tyler, Texas 75702.

JURISDICTION AND VENUE

5. Prescriber admits solely that New Crop purports to assert a civil action and seeks declaratory relief; otherwise, denied.

6. Prescriber lacks sufficient knowledge of the allegations in Paragraph 6 of the Complaint and denies them on that basis.

7. Prescriber admits that the Court has personal jurisdiction over Prescriber; otherwise, denied.

8. Prescriber admits that venue is proper in this District in cases involving Prescriber as a defendant; otherwise, denied.

FACTUAL BACKGROUND

9. Prescriber admits the allegations in paragraph 9 of the Complaint.

10. Prescriber lacks sufficient knowledge regarding the allegations in Paragraph 10 of the Complaint.

11. Prescriber denies the allegations of Paragraph 11 of the Complaint.

**COUNT 1—DECLARATORY RELIEVE REGARDING
NONINFRINGEMENT OF THE ‘095 PATENT**

12. Prescriber restates and incorporates by reference the foregoing paragraphs as if fully set forth herein.

13. Prescriber admits solely that NewCrop purports to request a declaratory judgment; otherwise denied.

**COUNT II—DECLARATORY RELIEF REGARDING
INVALIDITY OF THE ‘095 PATENT**

14. Prescriber restates and incorporates by reference the foregoing paragraphs as if fully set forth herein.

15. Prescriber admits that the ‘095 patent is valid; otherwise, denied.

16. Prescriber denies the allegations of Paragraph 16 of the Complaint.

17. Prescriber denies the allegations of Paragraph 17 of the Complaint.

18. Prescriber admits solely that NewCrop purports to request a declaratory judgment; otherwise denied.

**COUNT III—DECLARATION THAT THE ‘095 PATENT
IS UNENFORCEABLE DUE TO LACHES**

19. Prescriber restates and incorporates by reference the foregoing paragraphs as if fully set forth herein.

20. Prescriber admits the ‘095 patent was granted on May 26, 1998; otherwise, denied.

21. Prescriber admits solely that NewCrop purports to request a declaratory judgment; otherwise denied.

INJUNCTIVE RELIEF REGARDING ENFORCEMENT OF THE '095 PATENT

22. Prescriber restates and incorporates by reference the foregoing paragraphs as if fully set forth herein.

23. Prescriber denies that the Plaintiff is entitled to any relief requested in paragraph 23 of the Complaint.

ATTORNEYS FEES

24. Prescriber denies that Plaintiff is entitled to recover attorneys' fees.

COUNTS RAISED IN THE ALTERNATIVE

25. To the extent a response is required, Prescriber denies the allegations of Paragraph 25 of the Complaint.

ANSWER TO PRAYER FOR RELIEF

Prescriber denies that NewCrop is entitled to relief of any kind sought in its Complaint.

B. DEFENSES

26. NewCrop's Complaint fails to state a claim upon which relief may be granted.

27. The Court lacks subject matter jurisdiction over all claims that NewCrop has purported to set forth in its Complaint.

28. NewCrop lacks standing to assert the claims set forth in its Complaint.

JURY TRIAL DEMAND

Prescriber, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of all issues so triable by right.

WHEREFORE, Prescriber prays for the relief set forth in its Answer and Defenses above and requests that all relief requested by NewCrop be denied, and respectfully requests that judgment be entered accordingly.

Dated: July 15, 2014

Respectfully submitted,

/s/ Craig Tadlock
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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this the 15th day of July, 2014.

/s/ Craig Tadlock
Craig Tadlock